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A Congratulatory Note for the 30th Anniversary

*David I. Levine**

When I became Associate Academic Dean at UC Hastings in 1989, a predecessor advised me that the most important skill for the job is to be able to say no nicely to students. I certainly said “no” to a lot of students in two years; I hope I said it nicely, at least most of the time. Of course, even an associate academic dean occasionally can say yes to a (usually) grateful student. However, sometimes I could only reply “maybe” and explain why. When a group of students first came to me with their idea of establishing another scholarly publication at Hastings, this one focusing on women and the law, I had to say maybe. After all, it would have been our fifth publication at Hastings.¹ The reason for an equivocal answer at that time was that at Hastings, we had a tradition of testing the determination of students who say they want to start new scholarly publications.² Students get the bright idea of starting journals all the time. The institutional challenge is to determine if there is support from enough of the student body to sustain that interest once the first students’ original enthusiasm fades and the initiators graduate. We do not want to commit significant College resources—such as precious space and our limited budget for scholarly publications—to an enterprise that will never get off the ground.

Our trial by fire at that time was to tell the students that they must come up with the first issue of the journal on their own. They needed to solicit, develop and edit articles, and write notes sufficient to fill an issue. Moreover, they had to arrange the publication of that first issue, which called for substantial fundraising. With concrete work product, they could take the proposal to the faculty and board of directors for approval as an official scholarly publication of the College.

On two other occasions in my tenure as Associate Academic Dean, I

* Raymond L. Sullivan Professor of Law, University of California, Hastings College of the Law. Associate Academic Dean, 1989-1991. For the 30th anniversary celebration of the *Hastings Women’s Law Journal*, the editors very kindly asked me to revisit the remarks I published on the occasion of the 10th anniversary of the journal. This is an updated version of those remarks. Levine, David, *A Congratulatory Note*, 10 HASTINGS WOMEN’S L.J. 253 (1999).

1. Hastings now boasts ten journals.

2. Faculty approval is still required for new journals, but this publishing tradition has fallen by the wayside, in large measure because online publication has dropped the cost of supporting journals.

explained this policy to students who had splendid ideas for other journals. In each case, it seemed to me that they came into my office something like Judy Garland and Mickey Rooney in one of their old movies,³ proclaiming, "Hey, let's put on a law review!" However, after hearing of the testing procedure, they left the office with their hopes dashed. I never heard from those students again.

In one case, I received a totally different reaction. When a small group of women came to ask how they could get a scholarly publication started, and I explained the onerous procedure, they did not disappear. They persisted. Like Judy Garland and her companions in *The Wizard of Oz*,⁴ after having been told, "Bring me the broomstick of the Wicked Witch of the West,"⁵ these women went out determined to meet the test. They found other students interested in helping make their dream a reality. They solicited ideas from faculty members. They found authors willing to promise them articles, wrote their own student notes and even found financial support for that first issue. That early "maybe" from me turned into a "yes" from the College through their sustained hard work.

One can always ask: "Did Hastings need another scholarly publication?" After 30 years, we know that the answer continues to be yes. A prime function of a scholarly publication at a law school is to provide an intellectual niche for students. In addition to honing one's writing, researching and editing skills, it is a place to exchange and test ideas with students who share common interests. Another important function of scholarly publications is to provide a social niche in an otherwise large, and sometimes impersonal institution. Had *Hastings Women's Law Journal* not performed these functions admirably, we would not be celebrating its thirtieth anniversary.

One could also ask: "Will the legal world continue to need scholarly publications devoted to women's and alternative legal issues?" I think that here, too, the answer is yes. For example, in historian Linda Kerber's book, *No Constitutional Right to be Ladies*, a study chronicling certain legal struggles to permit women to undertake all the obligations of citizenship in our nation, she observes:

What we in our generation understand to be the fair and equal obligations of men and women is in part an abstraction enduring over time, developed out of philosophical traditions and logical argument. But it is also an understanding, still developing, that has

3. Probably the best example is the film, *Babes in Arms*, which popularized the conceit of kids putting on a musical show for charity. *Babes in Arms* (Metro-Goldwyn-Mayer 1939).

4. *The Wizard of Oz* (Warner Bros. Pictures 1939).

5. *Bring Me the Broomstick of the Witch of the West*, GETYARN.IO (Apr. 6, 2019) <https://getyarn.io/yarn-clip/1f48959b-9c5b-43bc-87f6-f3b0863ec05a>[<https://perma.cc/E3BZ-J6KQ>].

evolved historically out of the troubles and tragedies of many men and women, some long dead, some our contemporaries.⁶

Kerber concludes her book: “What is experienced as equal obligation has shifted over time as social relations between men and women have shifted. The principles remain steady and inviolate, but the work of maintaining them in our lives will have no end.”⁷

In the intervening years since 1989, we have seen remarkable legal, political and social events deserving the attention of people interested in the issues within the purview of the HWLJ. The same sex marriage movement is but one example of stunning change in this period.⁸ The changes in recognizing and understanding sexual harassment and discrimination are another.⁹ On the political scene, we have seen huge change as well.¹⁰ Not only did we see Hilary Clinton’s historic run for the presidency in 2016 and the explosion of women obtaining elective office in 2018, there are several women who are serious declared candidates for president in 2020.¹¹ Three

6. LINDA K. KERBER, *NO CONSTITUTIONAL RIGHT TO BE LADIES: WOMEN AND THE OBLIGATIONS OF CITIZENSHIP* 309 (1st ed. 1998).

7. *Id.* at 310.

8. In 1989, when HWLJ started, *Bowers v. Hardwick*, 478 U.S. 186 (1986), which upheld a Georgia law that criminalized certain homosexual acts, had been recently decided. *Obergefell v. Hodges*, 135 S. Ct. 2584, 2605 (2015), was the culmination of this movement. The Court held that states must permit same-sex couples to exercise the fundamental right to civil marriage on the same terms and conditions as opposite-sex couples.

9. See *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986) (holding that a hostile work environment is actionable under Title VII); see also *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989) (holding sexual stereotyping are a means of discrimination). These were new Supreme Court opinions when the HWLJ started. The Supreme Court has recently agreed to review three cases addressing the issues of whether Title VII of the Civil Rights Act of 1964 protects people from employment discrimination on the basis of sexual orientation or transgender status, <https://www.scotusblog.com/2019/04/court-to-take-up-lgbt-rights-in-the-workplace/#more-285229>. Sexual harassment and discrimination are addressed in Levine et al., *Psychological Problems, Social Issues and the Law*, Chapter 15 (forthcoming 2019).

10. Just to give a few local highlights as examples, Geraldine Ferraro was nominated in San Francisco in 1984 as the first woman to run on a major party ticket for vice-president. *Geraldine Anne Ferraro*, HIST., ART & ARCHIVES (last visited Apr. 6, 2019), <https://history.house.gov/People/Detail/13081> [<https://perma.cc/ZE2Y-8F2V>].

Nancy Pelosi was first elected to represent San Francisco in the House of Representatives in 1987. She is now Speaker of the House. *Nancy Pelosi*, BIO. DIRECTORY: U.S. CONG. (last visited Apr. 6, 2019), bioguide.congress.gov/scripts/biodisplay.pl?index=P000197 [<https://perma.cc/M9UL-GUZ2>]. Dianne Feinstein and Barbara Boxer, both Bay Area residents, were first elected to the U.S. Senate in 1992. Robert Reinhold, *The 1992 Campaign: California; 2 Women Win Nomination in California Senate Races*, N.Y. TIMES (June 3, 1992), <https://www.nytimes.com/1992/06/03/us/the-1992-campaign-california-2-women-win-nomination-in-california-senate-races.html> [<https://perma.cc/G4H7-3EWG>]. California has continuously had two female senators since then.

11. One of these candidates is none other than Senator Kamala Harris (D.-Cal.), UC Hastings Class of 1989. *Kamala D. Harris*, U.S. SEN. FOR CAL. (Apr. 6, 2019), <https://www>

women are serving on the U.S. Supreme Court,¹² as well as the California Supreme Court.¹³ Another issue which has emerged in this period is the need for recognition of rights for not just the gay community,¹⁴ but also for bisexual, transgender, and non-binary individuals.¹⁵ In this period, feminism has moved from the waning days of second wave feminism through third wave, into fourth wave,¹⁶ or even into post-feminism.¹⁷ It's clear that there are plenty of important issues for the HWLJ editors and writers to take on.

Looking back over the many years I have been privileged to be on the faculty at Hastings, I am glad I said “maybe” instead of “no” to those students who came to see me what still seems like a few short years ago.¹⁸ I was delighted when, like Dorothy and her companions, they brought back the broomstick in the form of that first issue of the HWLJ. I have found a source of quiet satisfaction in seeing the HWLJ endure and develop in the intervening years. May you and your successors continue in your important role at Hastings. And may members of the HWLJ continue for many years to come in the wider work of maintaining, understanding and even shaping how we experience the fair and equal obligations of women and men in our lives.

.harris.senate.gov/about [https://perma.cc/P6FE-L84V].

12. In 1989, Sandra Day O'Connor was then the first and only woman to serve on the U.S. Supreme Court. Ruth Bader Ginsburg, Sonia Sotomayor, and Elena Kagan have come on the Court in the intervening years. *Female Justices on the Supreme Court*, EQUALITY ARCHIVE, (Apr. 6, 2019), <http://equalityarchive.com/history/female-justices-supreme-court/> [https://perma.cc/JTH6-9GTX].

13. When the journal started in 1989, Chief Justice Rose Bird, the first woman to serve on the California Supreme Court, had recently been voted off the bench in a controversial retention election in 1986. *See e.g.*, KATHLEEN A. CAIRNS, *THE CASE OF ROSE BIRD; GENDER, POLITICS, AND THE CALIFORNIA COURTS* (Univ. of Neb. Press, 2016). Since then, six other women have served on the state's high court, including current court members, Chief Justice Tani Cantil-Sakauye, Associate Justice Linda Kreuger, and Associate Justice Carol Corrigan, UC Hastings Class of 1975. California Courts, Past & Present Justices, THE JUD. BRANCH OF CAL. (last visited Apr. 6, 2019), <http://www.courts.ca.gov/12523.htm> [https://perma.cc/3BX7-MGJ5].

14. In 1989, we probably would have spoken of the “gay community” only. LGBTQ+ has arisen since then. Michael Gold, *The ABCs of L.G.B.T.Q.I.A.+*, N.Y. TIMES, (June 21, 2018), <https://www.nytimes.com/2018/06/21/style/lgbtq-gender-language.html> [https://perma.cc/YW3G-7ANY].

15. *See, e.g.*, PAISLEY CURRAH ET AL., *TRANSGENDER RIGHTS* (Univ. of Minn. Press, 2006).

16. *See, e.g.*, Martha Rampton, *Four Waves of Feminism*, PAC. MAG. (Fall 2008) <https://www.pacificu.edu/about/media/four-waves-feminism> [https://perma.cc/82UPHNY5].

17. *See, e.g.*, YVONNE TASKER ET AL., *INTERROGATING POSTFEMINISM: GENDER AND THE POLITICS OF POPULAR CULTURE* (Duke Univ. Press, 2007).

18. In thinking back over these 30 years on a personal level, in 1989, my youngest daughter was born. In 2018, she married an attorney now working for Lambda Legal Foundation, which addresses civil rights issues for LGBTQ+ clients. Two other marriages of children and four fifth-wave feminists (a.k.a. grandchildren) have come on the scene in that time period as well.